

Notice of Agency Rule-making Proposal

AGENCY: Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Board of Occupational Therapy Practice

CHAPTER NUMBER AND TITLE:

- Chapter 1 General Information (repealed)
- Chapter 2 Advisory Rulings (amended)
- Chapter 3 Rules for the Licensure of Occupational Therapy Practice (repealed)
- Chapter 3-A Licensure as a Temporary Licensee, Occupational Therapist or Occupational Therapy Assistant (new)
- Chapter 4 Fees (repealed)
- Chapter 5 Role of the Occupational Therapy Assistant; Supervision of Occupational Therapy Assistants and Temporary Occupational Licensees (amended)
- Chapter 6 Renewal Requirements and Continuing Education (repealed)
- Chapter 6-A License Renewal (new)
- Chapter 7 Code of Ethics and Ethics Standards (repealed and replaced)
- Chapter 8 Enforcement and Disciplinary Procedures (repealed)
- Chapter 9 Professional Misconduct (new)

PROPOSED RULE NUMBER (*leave blank; assigned by Secretary of State*):

CONTACT PERSON FOR THIS FILING: Torrey Gray, Board Administrator, Office of Professional and Occupational Regulation, 35 State House Station, Augusta, ME 04333, tel. (207) 624-8420, email torrey.j.gray@maine.gov

CONTACT PERSON FOR SMALL BUSINESS INFORMATION (if different): Torrey Gray, Board Administrator (see contact information above)

PUBLIC HEARING (if any): August 17, 2012, 1:15 p.m., Department of Professional and Financial Regulation, 76 Northern Avenue, Gardiner, Maine

COMMENT DEADLINE: August 27, 2012

BRIEF *SUMMARY: The key initiatives in this rulemaking proceeding are the elimination of the continuing education requirement (compare repealed Chapter 6 and new Chapter 6-A), the shortening of the license term for occupational therapists and occupational therapy assistants from biennial to annual (compare repealed Chapter 6 and new Chapter 6-A), and the revision of the supervision requirement in Chapter 5. The proposed changes include an updated code of ethics (Chapter 7), a new chapter dealing with professional misconduct (Chapter 9), and also affect the information to be provided by applicants for initial and renewal licensure. (Chapters 3-A and 6-A). Unnecessary or obsolete chapters are repealed. A copy of the proposed rules may be downloaded from OPOR's web site at www.maine.gov/professionallicensing.

IMPACT ON MUNICIPALITIES OR COUNTIES (if any): None

STATUTORY AUTHORITY FOR THIS RULE: 5 MRSA §§8051, 9001(4); 32 MRSA §§2274(2), 2283(2)

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED (if different):

E-MAIL FOR OVERALL AGENCY RULE-MAKING LIAISON: jeffrey.m.frankel@maine.gov

* Check one of the following two boxes.

☐ The above summary is for use in both the newspaper and website notices.

☒ The above summary is for the newspaper notice only. A more detailed summary / basis statement is attached.

Please approve bottom portion of this form and assign appropriate AdvantageME number.

APPROVED FOR PAYMENT _____ DATE: _____
(authorized signature)

FUND	AGENCY	ORG	APP	JOB	OBJT	AMOUNT
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Notice of Agency Rule-making Proposal

DETAILED BASIS STATEMENT / SUMMARY: The key initiatives in this rulemaking proceeding are the elimination of the continuing education requirement (compare repealed Chapter 6 and new Chapter 6-A), the shortening of the license term for occupational therapists and occupational therapy assistants from biennial to annual (compare repealed Chapter 6 and new Chapter 6-A), and the revision of the supervision requirement in Chapter 5.

Chapter 5 as it currently exists requires occupational therapists to engage in defined tiers of supervision activities over temporary licensees and occupational therapy assistants of different experience levels. The proposed amendment to Chapter 5 leaves the frequency and nature of supervision over occupational therapy assistants to the judgment of the supervising occupational therapist. The proposed amendment to Chapter 5 leaves the frequency of supervision over temporary licensees to the judgment of the supervising occupational therapist.

Chapter 5 as it currently exists requires documentation of the supervisory relationship, and also requires the supervisor to keep documentation of the supervision provided available for inspection by the board. The amended rule continues to require documentation of the supervisory relationship, but no longer requires maintenance of a supervision log for board review. A supervisor is legally and ethically responsible for the professional activities of a supervisee. Each supervisee must have a supervisor of record for each facility or work setting at or in which the supervisee is employed. Chapter 5 as it currently exists requires the supervisor “to have knowledge of the client and the problems being discussed.” The proposed rule requires the supervisor “to have knowledge of the client, or the occupational therapy services received by the client, and the problems being discussed.”

Applicants will no longer be permitted to document completion of education and fieldwork by letter from the educational institution; an official transcript will be required in all circumstances. (Compare repealed Chapter 3 and new Chapter 3-A). Chapter 3-A requires applicants for initial licensure to arrange for verification of any licenses held in other jurisdictions. Chapters 3-A and 6-A require applicants for initial and renewal licenses to disclose any criminal or disciplinary history.

In Chapter 7, the board replaces its current code of ethics with the AOTA Occupational Therapy Code of Ethics and Ethics Standards (2010), subject to certain exceptions. Chapter 9, Professional Misconduct, is new. Chapter 9 establishes habitual substance abuse and sexual misconduct as grounds for disciplinary action.

Chapter 2 conforms the board’s rule on advisory rulings to a more recent format used by another program within the board’s work unit at OPOR.

Chapters 1, 4 and 8 of the current rules are obsolete or unnecessary and are repealed in their entirety. Chapter 3 is repealed and superseded by new Chapter 3-A. Chapter 6 is repealed and superseded by new Chapter 6-A.

A copy of the proposed rules may be downloaded from OPOR’s web site at www.maine.gov/professionallicensing.

Rule-Making Fact Sheet

(5 MRSA §8057-A)

AGENCY: Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Board of Occupational Therapy Practice

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON: Torrey Gray, Board Administrator, Office of Professional and Occupational Regulation, 35 State House Station, Augusta, ME 04333, tel. (207) 624-8420, email torrey.j.gray@maine.gov

CHAPTER NUMBER AND RULE TITLE: Chapter 1, General Information (repealed)

STATUTORY AUTHORITY: 32 MRSA §2274(2)

DATE AND PLACE OF PUBLIC HEARING: August 17, 2012, 1:15 p.m., Department of Professional and Financial Regulation, 76 Northern Avenue, Gardiner, Maine

COMMENT DEADLINE: August 27, 2012

PRINCIPAL REASON OR PURPOSE FOR PROPOSING THIS RULE: Repeal of the continuing education requirement in former Chapter 6; revision of supervision requirements in Chapter 5.

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE (PRIMARY SOURCES): Current rulemaking practice, professional judgment.

ANALYSIS AND EXPECTED OPERATION OF THE RULE: This chapter is repealed in its entirety. It is unnecessary to include board governance provisions in a board's rules. It is unnecessary to recognize abbreviations for NBCOT membership in the board's rules.

FINDINGS UNDER CRITERIA CONTAINED IN EXECUTIVE ORDER 20 FY 11/12:
(A) The proposed rule will not negatively impact job growth or creation; (B) There are no fees included in the rule; (C) There is no cost to the public in terms of time and money required to comply with the rule; (D) No other state laws or rules already address the subject matter of this rule; (E) There are no relevant federal standards.

FISCAL IMPACT OF THE RULE: None

FOR RULES WITH FISCAL IMPACT OF \$1 MILLION OR MORE, ALSO INCLUDE:

ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:

INDIVIDUALS OR GROUPS AFFECTED AND HOW THEY WILL BE AFFECTED:

BENEFITS OF THE RULE:

Rule-Making Fact Sheet

(5 MRSA §8057-A)

AGENCY: Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Board of Occupational Therapy Practice

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON: Torrey Gray, Board Administrator, Office of Professional and Occupational Regulation, 35 State House Station, Augusta, ME 04333, tel. (207) 624-8420, email torrey.j.gray@maine.gov

CHAPTER NUMBER AND RULE TITLE: Chapter 2, Advisory Rulings (amended)

STATUTORY AUTHORITY: 5 MRSA §§80051, 9001(4)

DATE AND PLACE OF PUBLIC HEARING: August 17, 2012, 1:15 p.m., Department of Professional and Financial Regulation, 76 Northern Avenue, Gardiner, Maine

COMMENT DEADLINE: August 27, 2012

PRINCIPAL REASON OR PURPOSE FOR PROPOSING THIS RULE: Repeal of the continuing education requirement in former Chapter 6; revision of supervision requirements in Chapter 5.

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE (PRIMARY SOURCES): Current rulemaking practice, professional judgment.

ANALYSIS AND EXPECTED OPERATION OF THE RULE: This chapter conforms the board's rule on advisory rulings to a more recent format used by another program within the board's work unit at OPOR.

FINDINGS UNDER CRITERIA CONTAINED IN EXECUTIVE ORDER 20 FY 11/12:
(A) The proposed rule will not negatively impact job growth or creation; (B) There are no fees included in the rule; (C) There is no cost to the public in terms of time and money required to comply with the rule; (D) No other state laws or rules already address the subject matter of this rule; (E) There are no relevant federal standards.

FISCAL IMPACT OF THE RULE: None

FOR RULES WITH FISCAL IMPACT OF \$1 MILLION OR MORE, ALSO INCLUDE:

ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:

INDIVIDUALS OR GROUPS AFFECTED AND HOW THEY WILL BE AFFECTED:

BENEFITS OF THE RULE:

Rule-Making Fact Sheet

(5 MRSA §8057-A)

AGENCY: Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Board of Occupational Therapy Practice

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON: Torrey Gray, Board Administrator, Office of Professional and Occupational Regulation, 35 State House Station, Augusta, ME 04333, tel. (207) 624-8420, email torrey.j.gray@maine.gov

CHAPTER NUMBER AND RULE TITLE: Chapter 3, Rules for the Licensure of Occupational Therapy Practice (repealed)

STATUTORY AUTHORITY: 32 MRSA §2274(2)

DATE AND PLACE OF PUBLIC HEARING: August 17, 2012, 1:15 p.m., Department of Professional and Financial Regulation, 76 Northern Avenue, Gardiner, Maine

COMMENT DEADLINE: August 27, 2012

PRINCIPAL REASON OR PURPOSE FOR PROPOSING THIS RULE: This chapter is replaced by new Chapter 3-A, Licensure as a Temporary Licensee, Occupational Therapist or Occupational Therapy Assistant.

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE (PRIMARY SOURCES): Comparison of rule text with 32 MRSA §§2278 and 2279, professional judgment.

ANALYSIS AND EXPECTED OPERATION OF THE RULE: Chapter 3 is repealed and replaced by Chapter 3-A. Chapter 3 in large part reiterates the statutory qualifications for licensure set forth in 32 MRSA §2278 (temporary licensees) and §2279 (occupational therapists and occupational therapists). It is ordinarily unnecessary to reiterate statutory provisions in a board rule. Chapter 3-A references the statutory qualifications for licensure without repeating them verbatim. In addition:

- Provisions relating to one-time renewal of a temporary license have been moved from Chapter 3 to Chapter 6-A
- Under Chapter 3-A, applicants will no longer be permitted to document completion of education and fieldwork by letter from the educational institution. An official transcript will be required in all circumstances.
- Chapter 3-A notifies applicants that license verification from other jurisdictions and any criminal or disciplinary history will be requested by OPOR as part of the licensing process.

FINDINGS UNDER CRITERIA CONTAINED IN EXECUTIVE ORDER 20 FY 11/12:

(A) The proposed rule will not negatively impact job growth or creation; (B) There are no fees included in the rule; (C) There is no cost to the public in terms of time and money required to comply with the rule; (D) No other state laws or rules already address the subject matter of this rule; (E) There are no relevant federal standards.

FISCAL IMPACT OF THE RULE: None

FOR RULES WITH FISCAL IMPACT OF \$1 MILLION OR MORE, ALSO INCLUDE:

ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:

INDIVIDUALS OR GROUPS AFFECTED AND HOW THEY WILL BE AFFECTED:

BENEFITS OF THE RULE:

Note: If necessary, additional pages may be used.

Rule-Making Fact Sheet

(5 MRSA §8057-A)

AGENCY: Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Board of Occupational Therapy Practice

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON: Torrey Gray, Board Administrator, Office of Professional and Occupational Regulation, 35 State House Station, Augusta, ME 04333, tel. (207) 624-8420, email torrey.j.gray@maine.gov

CHAPTER NUMBER AND RULE TITLE: Chapter 3-A, Licensure as a Temporary Licensee, Occupational Therapist or Occupational Therapy Assistant (new)

STATUTORY AUTHORITY: 32 MRSA §2274(2)

DATE AND PLACE OF PUBLIC HEARING: August 17, 2012, 1:15 p.m., Department of Professional and Financial Regulation, 76 Northern Avenue, Gardiner, Maine

COMMENT DEADLINE: August 27, 2012

PRINCIPAL REASON OR PURPOSE FOR PROPOSING THIS RULE: Repeal of the continuing education requirement in former Chapter 6; revision of supervision requirements in Chapter 5.

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE (PRIMARY SOURCES): Comparison of former Chapter 3 with 32 MRSA §§2278 and 2279, professional judgment.

ANALYSIS AND EXPECTED OPERATION OF THE RULE: Former Chapter 3 in large part reiterates the statutory qualifications for licensure set forth in 32 MRSA §2278 (temporary licensees) and §2279 (occupational therapists and occupational therapists). It is ordinarily unnecessary to reiterate statutory provisions in a board rule. Chapter 3-A references the statutory qualifications for licensure without repeating them verbatim. In addition:

- Under Chapter 3-A, applicants will no longer be permitted to document completion of education and fieldwork by letter from the educational institution. An official transcript will be required in all circumstances.
- Chapter 3-A notifies applicants that license verification from other jurisdictions and any criminal or disciplinary history will be requested by OPOR as part of the licensing process.

FINDINGS UNDER CRITERIA CONTAINED IN EXECUTIVE ORDER 20 FY 11/12:

(A) The proposed rule will not negatively impact job growth or creation; (B) There are no fees included in the rule; (C) There is no cost to the public in terms of time and money required to comply with the rule; (D) No other state laws or rules already address the subject matter of this rule; (E) There are no relevant federal standards.

FISCAL IMPACT OF THE RULE: None

FOR RULES WITH FISCAL IMPACT OF \$1 MILLION OR MORE, ALSO INCLUDE:

ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:

INDIVIDUALS OR GROUPS AFFECTED AND HOW THEY WILL BE AFFECTED:

BENEFITS OF THE RULE:

Note: If necessary, additional pages may be used.

Rule-Making Fact Sheet

(5 MRSA §8057-A)

AGENCY: Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Board of Occupational Therapy Practice

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON: Torrey Gray, Board Administrator, Office of Professional and Occupational Regulation, 35 State House Station, Augusta, ME 04333, tel. (207) 624-8420, email torrey.j.gray@maine.gov

CHAPTER NUMBER AND RULE TITLE: Chapter 4, Fees (repealed)

STATUTORY AUTHORITY: 32 MRSA §2274(2)

DATE AND PLACE OF PUBLIC HEARING: August 17, 2012, 1:15 p.m., Department of Professional and Financial Regulation, 76 Northern Avenue, Gardiner, Maine

COMMENT DEADLINE: August 27, 2012

PRINCIPAL REASON OR PURPOSE FOR PROPOSING THIS RULE: Repeal of the continuing education requirement in former Chapter 6; revision of supervision requirements in Chapter 5.

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE (PRIMARY SOURCES): Change in statutory authority for the establishment of license fees.

ANALYSIS AND EXPECTED OPERATION OF THE RULE: Fee-setting authority now resides exclusively with the Director of the Office of Professional and Occupational Licensing. See 10 MRSA §8003(2-A)(D) and 32 MRSA §2285.

FINDINGS UNDER CRITERIA CONTAINED IN EXECUTIVE ORDER 20 FY 11/12:
(A) The proposed rule will not negatively impact job growth or creation; (B) There are no fees included in the rule; (C) There is no cost to the public in terms of time and money required to comply with the rule; (D) No other state laws or rules already address the subject matter of this rule; (E) There are no relevant federal standards.

FISCAL IMPACT OF THE RULE: None

FOR RULES WITH FISCAL IMPACT OF \$1 MILLION OR MORE, ALSO INCLUDE:

ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:

INDIVIDUALS OR GROUPS AFFECTED AND HOW THEY WILL BE AFFECTED:

BENEFITS OF THE RULE:

Rule-Making Fact Sheet

(5 MRSA §8057-A)

AGENCY: Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Board of Occupational Therapy Practice

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON: Torrey Gray, Board Administrator, Office of Professional and Occupational Regulation, 35 State House Station, Augusta, ME 04333, tel. (207) 624-8420, email torrey.j.gray@maine.gov

CHAPTER NUMBER AND RULE TITLE: Chapter 5, Role of the Occupational Therapy Assistant; Supervision of Occupational Therapy Assistants and Temporary Licensees (amended)

STATUTORY AUTHORITY: 32 MRSA §2274(2)

DATE AND PLACE OF PUBLIC HEARING: August 17, 2012, 1:15 p.m., Department of Professional and Financial Regulation, 76 Northern Avenue, Gardiner, Maine

COMMENT DEADLINE: August 27, 2012

PRINCIPAL REASON OR PURPOSE FOR PROPOSING THIS RULE: Repeal of the continuing education requirement in former Chapter 6; revision of supervision requirements in Chapter 5.

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE (PRIMARY SOURCES): Requirements of 32 MRSA §2272(14) and (15); experience under prior rule; professional judgment.

ANALYSIS AND EXPECTED OPERATION OF THE RULE: The prior chapter required occupational therapists to engage in defined tiers of supervision activities over temporary licensees and occupational therapy assistants of different experience levels. The amended rule leaves the frequency and nature of supervision over occupational therapy assistants to the judgment of the supervising occupational therapist. The amended rule leaves the frequency of supervision over temporary licensees to the judgment of the supervising occupational therapist. A supervisor is legally and ethically responsible for the professional activities of a supervisee. Each supervisee must have a supervisor of record for each facility or work setting at or in which the supervisee is employed. Chapter 5 as it currently exists requires the supervisor “to have knowledge of the client and the problems being discussed.” The proposed rule requires the supervisor “to have knowledge of the client, or the occupational therapy services received by the client, and the problems being discussed.”

The prior chapter required documentation of the supervisory relationship, and also required the supervisor to keep documentation of the supervision provided available for inspection by the board. The amended rule continues to require documentation of the supervisory relationship, but no longer requires maintenance of a supervision log for board review.

FINDINGS UNDER CRITERIA CONTAINED IN EXECUTIVE ORDER 20 FY 11/12:

(A) The proposed rule will not negatively impact job growth or creation; (B) There are no fees included in the rule; (C) There is no cost to the public in terms of time and money required to

comply with the rule; (D) No other state laws or rules already address the subject matter of this rule; (E) There are no relevant federal standards.

FISCAL IMPACT OF THE RULE: None

FOR RULES WITH FISCAL IMPACT OF \$1 MILLION OR MORE, ALSO INCLUDE:

ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:

INDIVIDUALS OR GROUPS AFFECTED AND HOW THEY WILL BE AFFECTED:

BENEFITS OF THE RULE:

Note: If necessary, additional pages may be used.

Rule-Making Fact Sheet

(5 MRSA §8057-A)

AGENCY: Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Board of Occupational Therapy Practice

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON: Torrey Gray, Board Administrator, Office of Professional and Occupational Regulation, 35 State House Station, Augusta, ME 04333, tel. (207) 624-8420, email torrey.j.gray@maine.gov

CHAPTER NUMBER AND RULE TITLE: Chapter 6, Renewal Requirements and Continuing Education (repealed)

STATUTORY AUTHORITY: 32 MRSA §§2274(2), 2283(2)

DATE AND PLACE OF PUBLIC HEARING: August 17, 2012, 1:15 p.m., Department of Professional and Financial Regulation, 76 Northern Avenue, Gardiner, Maine

COMMENT DEADLINE: August 27, 2012

PRINCIPAL REASON OR PURPOSE FOR PROPOSING THIS RULE: Repeal of the continuing education requirement in former Chapter 6; revision of supervision requirements in Chapter 5.

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE (PRIMARY SOURCES): NBCOT certification renewal requirement; experience under prior rule; professional judgment.

ANALYSIS AND EXPECTED OPERATION OF THE RULE: Chapter 6 is repealed and replaced by Chapter 6-A. The major differences are elimination of the continuing education requirement, and the shortening of the license term for occupational therapists and occupational therapy assistants from biennial to annual.

FINDINGS UNDER CRITERIA CONTAINED IN EXECUTIVE ORDER 20 FY 11/12:
(A) The proposed rule will not negatively impact job growth or creation; (B) There are no fees included in the rule; (C) There is no cost to the public in terms of time and money required to comply with the rule; (D) No other state laws or rules already address the subject matter of this rule; (E) There are no relevant federal standards.

FISCAL IMPACT OF THE RULE: None

FOR RULES WITH FISCAL IMPACT OF \$1 MILLION OR MORE, ALSO INCLUDE:
ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:
INDIVIDUALS OR GROUPS AFFECTED AND HOW THEY WILL BE AFFECTED:
BENEFITS OF THE RULE:

Rule-Making Fact Sheet

(5 MRSA §8057-A)

AGENCY: Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Board of Occupational Therapy Practice

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON: Torrey Gray, Board Administrator, Office of Professional and Occupational Regulation, 35 State House Station, Augusta, ME 04333, tel. (207) 624-8420, email torrey.j.gray@maine.gov

CHAPTER NUMBER AND RULE TITLE: Chapter 6-A, License Renewal (new)

STATUTORY AUTHORITY: 32 MRSA §§2274(2), 2283(2)

DATE AND PLACE OF PUBLIC HEARING: August 17, 2012, 1:15 p.m., Department of Professional and Financial Regulation, 76 Northern Avenue, Gardiner, Maine

COMMENT DEADLINE: August 27, 2012

PRINCIPAL REASON OR PURPOSE FOR PROPOSING THIS RULE: Repeal of the continuing education requirement in former Chapter 6; revision of supervision requirements in Chapter 5.

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE (PRIMARY SOURCES): NBCOT certification renewal requirement; experience under prior rule; professional judgment.

ANALYSIS AND EXPECTED OPERATION OF THE RULE: Chapter 6-A eliminates the continuing education requirement of former Chapter 6. In addition, Chapter 6-A:

- Shortens the license term for occupational therapists and occupational therapy assistants from biennial to annual.
- Contains provisions relating to one-time renewal of a temporary license that are re-located from former Chapter 3.
- Notifies applicants that any criminal or disciplinary history since the time of last renewal will be requested by OPOR as part of the licensing process.
- References the statutory provision relating to reinstatement of a license that has expired for more than 90 days.

FINDINGS UNDER CRITERIA CONTAINED IN EXECUTIVE ORDER 20 FY 11/12:

(A) The proposed rule will not negatively impact job growth or creation; (B) There are no fees included in the rule; (C) There is no cost to the public in terms of time and money required to comply with the rule; (D) No other state laws or rules already address the subject matter of this rule; (E) There are no relevant federal standards.

FISCAL IMPACT OF THE RULE: None

FOR RULES WITH FISCAL IMPACT OF \$1 MILLION OR MORE, ALSO INCLUDE:

ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:

INDIVIDUALS OR GROUPS AFFECTED AND HOW THEY WILL BE AFFECTED:

BENEFITS OF THE RULE:

Rule-Making Fact Sheet

(5 MRSA §8057-A)

AGENCY: Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Board of Occupational Therapy Practice

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON: Torrey Gray, Board Administrator, Office of Professional and Occupational Regulation, 35 State House Station, Augusta, ME 04333, tel. (207) 624-8420, email torrey.j.gray@maine.gov

CHAPTER NUMBER AND RULE TITLE: Chapter 7, Code of Ethics and Ethics Standards (repealed and replaced)

STATUTORY AUTHORITY: 32 MRSA §2274(2)

DATE AND PLACE OF PUBLIC HEARING: August 17, 2012, 1:15 p.m., Department of Professional and Financial Regulation, 76 Northern Avenue, Gardiner, Maine

COMMENT DEADLINE: August 27, 2012

PRINCIPAL REASON OR PURPOSE FOR PROPOSING THIS RULE: Repeal of the continuing education requirement in former Chapter 6; revision of supervision requirements in Chapter 5.

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE (PRIMARY SOURCES): 2010 AOTA Occupational Therapy Code of Ethics and Ethics Standards (2010); professional judgment.

ANALYSIS AND EXPECTED OPERATION OF THE RULE: This chapter updates the code of ethics applicable to licensees.

FINDINGS UNDER CRITERIA CONTAINED IN EXECUTIVE ORDER 20 FY 11/12:
(A) The proposed rule will not negatively impact job growth or creation; (B) There are no fees included in the rule; (C) There is no cost to the public in terms of time and money required to comply with the rule; (D) No other state laws or rules already address the subject matter of this rule; (E) There are no relevant federal standards.

FISCAL IMPACT OF THE RULE: None

FOR RULES WITH FISCAL IMPACT OF \$1 MILLION OR MORE, ALSO INCLUDE:

ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:

INDIVIDUALS OR GROUPS AFFECTED AND HOW THEY WILL BE AFFECTED:

BENEFITS OF THE RULE:

Rule-Making Fact Sheet

(5 MRSA §8057-A)

AGENCY: Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Board of Occupational Therapy Practice

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON: Torrey Gray, Board Administrator, Office of Professional and Occupational Regulation, 35 State House Station, Augusta, ME 04333, tel. (207) 624-8420, email torrey.j.gray@maine.gov

CHAPTER NUMBER AND RULE TITLE: Chapter 8, Enforcement and Disciplinary Procedures (repealed)

STATUTORY AUTHORITY: 32 MRSA §2274(2)

DATE AND PLACE OF PUBLIC HEARING: August 17, 2012, 1:15 p.m., Department of Professional and Financial Regulation, 76 Northern Avenue, Gardiner, Maine

COMMENT DEADLINE: August 27, 2012

PRINCIPAL REASON OR PURPOSE FOR PROPOSING THIS RULE: Repeal of the continuing education requirement in former Chapter 6; revision of supervision requirements in Chapter 5.

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE (PRIMARY SOURCES): Current rulemaking practice, professional judgment.

ANALYSIS AND EXPECTED OPERATION OF THE RULE: This chapter is repealed in its entirety. A description of the board complaint officer and the OPOR complaint investigation process need not be in the board's rules.

FINDINGS UNDER CRITERIA CONTAINED IN EXECUTIVE ORDER 20 FY 11/12:
(A) The proposed rule will not negatively impact job growth or creation; (B) There are no fees included in the rule; (C) There is no cost to the public in terms of time and money required to comply with the rule; (D) No other state laws or rules already address the subject matter of this rule; (E) There are no relevant federal standards.

FISCAL IMPACT OF THE RULE: None

FOR RULES WITH FISCAL IMPACT OF \$1 MILLION OR MORE, ALSO INCLUDE:
ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:
INDIVIDUALS OR GROUPS AFFECTED AND HOW THEY WILL BE AFFECTED:
BENEFITS OF THE RULE:

Rule-Making Fact Sheet

(5 MRSA §8057-A)

AGENCY: Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Board of Occupational Therapy Practice

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON: Torrey Gray, Board Administrator, Office of Professional and Occupational Regulation, 35 State House Station, Augusta, ME 04333, tel. (207) 624-8420, email torrey.j.gray@maine.gov

CHAPTER NUMBER AND RULE TITLE: Chapter 9, Professional Misconduct (new)

STATUTORY AUTHORITY: 32 MRSA §2274(2)

DATE AND PLACE OF PUBLIC HEARING: August 17, 2012, 1:15 p.m., Department of Professional and Financial Regulation, 76 Northern Avenue, Gardiner, Maine

COMMENT DEADLINE: August 27, 2012

PRINCIPAL REASON OR PURPOSE FOR PROPOSING THIS RULE: Repeal of the continuing education requirement in former Chapter 6; revision of supervision requirements in Chapter 5.

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE (PRIMARY SOURCES): Other OPOR rules; professional judgment.

ANALYSIS AND EXPECTED OPERATION OF THE RULE: This chapter establishes habitual substance abuse and sexual misconduct as grounds for disciplinary action.

FINDINGS UNDER CRITERIA CONTAINED IN EXECUTIVE ORDER 20 FY 11/12:

(A) The proposed rule will not negatively impact job growth or creation; (B) There are no fees included in the rule; (C) There is no cost to the public in terms of time and money required to comply with the rule; (D) No other state laws or rules already address the subject matter of this rule; (E) There are no relevant federal standards.

FISCAL IMPACT OF THE RULE: None

FOR RULES WITH FISCAL IMPACT OF \$1 MILLION OR MORE, ALSO INCLUDE:

ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:

INDIVIDUALS OR GROUPS AFFECTED AND HOW THEY WILL BE AFFECTED:

BENEFITS OF THE RULE:

Economic Impact Statement

(5 MRSA §8052(5-A))

AGENCY: Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Board of Occupational Therapy Practice

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON: Torrey Gray,
Office of Professional and Occupational Regulation, 35 State House Station, Augusta, ME
04333, (207) 624-8420

CHAPTER NUMBER AND RULE TITLE:

Chapter 1 General Information (repealed)
Chapter 2 Advisory Rulings (amended)
Chapter 3 Rules for the Licensure of Occupational Therapy Practice
(repealed)
Chapter 3-A..... Licensure as a Temporary Licensee, Occupational Therapist or
Occupational Therapy Assistant (new)
Chapter 4 Fees (repealed)
Chapter 5 Role of the Occupational Therapy Assistant; Supervision of
Occupational Therapy Assistants and Temporary Occupational
Licensees (amended)
Chapter 6 Renewal Requirements and Continuing Education (repealed)
Chapter 6-A..... License Renewal (new)
Chapter 7 Code of Ethics and Ethics Standards (repealed and replaced)
Chapter 8 Enforcement and Disciplinary Procedures (repealed)
Chapter 9 Professional Misconduct (new)

TYPES AND NUMBER OF SMALL BUSINESS SUBJECT TO THE RULE: The Board of Occupational Therapy Practice (“the board”) licenses 1,031 occupational therapists, occupational therapy assistants, and temporary licensees. Title 5 MRSA §8052(5-A) defines “small business” as businesses that have 20 or fewer employees. The board does not collect any information that permits it to reliably estimate how many of its licensees are small business as defined in 5 MRSA §8052(5-A).

PROJECTED REPORTING, RECORD-KEEPING AND OTHER ADMINISTRATIVE COSTS REQUIRED FOR COMPLIANCE WITH THE PROPOSED RULE, INCLUDING THE TYPE OF PROFESSIONAL SKILLS NECESSARY FOR PREPARATION OF THE REPORT OR RECORD: The proposed rules reduce record-keeping and compliance costs for licensees by: (1) eliminating the continuing education requirement, (2) eliminating content requirements for the supervision provided to occupational therapy assistants and temporary licensees, and (3) eliminating a supervisor's obligation to document the hours and the content of supervision provided to occupational therapy assistants and temporary licensees. Ordinary professional skills are required for preparing the reports and records required by the proposed rules, such as license applications and renewals and documentation of supervisor forms.

PROBABLE IMPACT ON AFFECTED SMALL BUSINESS: None

LESS INTRUSIVE OR LESS COSTLY, REASONABLE ALTERNATIVE METHODS OF ACHIEVING THE PURPOSES OF THE PROPOSED RULE: The proposed rules change the ordinary license term from biennial to annual. This will result in licensees needing to renew twice as often as before. This change is necessary to achieve fiscal stability within the licensing program, and for uniformity of administration with other licensing programs.

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

477 BOARD OF OCCUPATIONAL THERAPY PRACTICE

Chapter 1: GENERAL INFORMATION

SUMMARY: This chapter provides for the election of Board officers and the professional identification of licensees.

Section 1. BOARD OFFICERS

- ~~1. The Board shall elect its Chair, Secretary, and Complaint Officer at the annual meeting, or when a vacancy develops.~~

Section 2. PROFESSIONAL IDENTIFICATION

- ~~1. The designation "OTR/L" (Occupational Therapist Registered, Licensed) and/or the term "registered occupational therapist" identify a licensed occupational therapist in good standing with NBCOT (National Board for Certification in Occupational Therapy).~~
- ~~2. The designation "COTA/L" (Certified Occupational Therapy Assistant, Licensed) and/or the term "certified occupational therapy assistant" identify a licensed occupational therapy assistant in good standing with NBCOT.~~
- ~~3. Occupational therapy students and occupational therapy assistant students completing fieldwork may use the letters "O.T.S." (Occupational Therapy Student) and "O.T.A.S." (Occupational Therapy Assistant Student), respectively.~~
- ~~4. Occupational therapy practitioners are prohibited from misrepresenting their license status.~~
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STATUTORY AUTHORITY: 32 MRSA §§2272 and 2274(2)

EFFECTIVE DATE:

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

477 BOARD OF OCCUPATIONAL THERAPY PRACTICE

Chapter 2: ADVISORY RULINGS

SUMMARY: This chapter provides for the issuance of advisory rulings by the Board.

~~Section 1. ADVISORY RULINGS~~

- ~~1. Authority and Scope — The Board may issue advisory rulings concerning the applicability of any statute or rule that it administers to an existing factual situation. Advisory rulings may be issued at the Board's discretion, pursuant to a determination regarding propriety.~~
- ~~2. Submission — Requests for advisory rulings shall be submitted in writing and shall set forth in detail all facts pertinent to the question.~~
- ~~3. Acknowledgment — The Board shall acknowledge all requests for advisory rulings within (15) days. Within sixty (60) days of acknowledgment, the Board may indicate its intention to provide an opinion, or request any additional information which is necessary to determine whether an advisory ruling is appropriate, or to establish the factual background upon which the ruling is to be predicated.~~
- ~~4. Rulings — All advisory rulings issued by the Board shall be in writing, signed by the Chairperson, and numbered sequentially. These rulings shall include a statement of any facts or assumptions upon which the ruling is based and shall be self-contained.~~
- ~~5. Disposition — Each completed advisory ruling shall be mailed to the party who requested it, and a copy shall be kept by the Board in a file established for this purpose. All such rulings are public documents and shall be available for inspection during the normal working hours of the Board's Office. In addition, the Board may otherwise publish or circulate any advisory rulings as it deems appropriate.~~

1. Request and Consideration

Upon written request of any interested person, the board may issue an advisory ruling pursuant to 5 M.R.S.A. §9001 with respect to the applicability of any statute or rule it administers. Requests for advisory rulings must set forth in detail all facts pertinent to the question. The board may decline to issue an advisory ruling if the question is hypothetical, if there is insufficient information upon which to base a ruling, or for any other reason the board deems proper.

2. Response

The board shall acknowledge receipt of a request for an advisory ruling within 15 days after receipt. The board shall respond to every written request for an advisory ruling within 90 days of its receipt of the request, indicating whether or not a ruling will be issued by the board.

STATUTORY AUTHORITY: 5 MRSA §§8051, 9001(4)

EFFECTIVE DATE:

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

477 BOARD OF OCCUPATIONAL THERAPY PRACTICE

Chapter 3: RULES FOR THE LICENSURE OF OCCUPATIONAL THERAPY PRACTICE

~~SUMMARY: This chapter contains requirements and procedures for the issuance of permanent and temporary licenses for the practice of occupational therapy.~~

~~Section 1. PERMANENT LICENSURE~~

~~— An applicant for permanent licensure shall furnish the following:~~

- ~~1. Verification of certification form from NBCOT (An applicant who applies within three [3] months of taking the certification examination, and has the examination scores sent directly to the Board, is exempt from this requirement.);~~
- ~~2. A completed application form;~~
- ~~3. Two completed and acceptable references on forms supplied by the Board, written by individuals who are unrelated to the applicant, that address the applicant's professional ethics;~~
- ~~4. A completed supervisor's affidavit form (for OTAs only); and~~
- ~~5. The application and license fees.~~

~~NOTE: An applicant who has held a Maine license within the preceding two [2] years shall submit evidence of having completed the continuing education required by Chapter 7 of these rules.~~

~~Section 2. TEMPORARY LICENSURE~~

- ~~1. A temporary license may be granted to a person who has completed the required education and level II fieldwork, as set forth in Title 32, Chapter 32 of the Maine Revised Statutes, and has also received NBCOT approval to sit for the appropriate certification examination. A temporary license allows the holder to practice occupational therapy under the supervision of a licensed occupational therapist. To be considered for a temporary license, an applicant shall submit:~~
 - ~~A. Evidence of having satisfied all of the educational and level II (clinical) requirements for permanent licensure;~~

- ~~_____ B. A completed application form;~~
 - ~~_____ C. A completed supervisor's affidavit form;~~
 - ~~_____ D. Two completed and acceptable references on forms supplied by the Board, written by individuals who are unrelated to the applicant, that address the applicant's professional ethics;~~
 - ~~_____ E. An official transcript, or completion of the verification of education form with the signature of the Dean or occupational therapy program director (must have school seal or be notarized); and~~
 - ~~_____ F. The application and license fees.~~
- ~~_____ 2. A temporary license is valid only until the licensee's results from the certification examination are made available to the Board. It may be renewed one time only at the discretion of the Board. In order for a temporary license to be considered for renewal, the licensee shall submit the following to the Board:~~
- ~~_____ A. Letters of request for renewal from both the supervisor and the licensee;~~
 - ~~_____ B. A supervision plan, outlining an appropriate amount of supervision for the setting; and~~
 - ~~_____ C. A study plan from the licensee requesting a renewal of the temporary license.~~

~~Section 3. FOREIGN TRAINED APPLICANTS (Please refer to 32 M.R.S.A. §2284.)~~

STATUTORY AUTHORITY: 32 MRSA §§2274(2), 2278, 2279, and 2284

EFFECTIVE DATE:

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

477 BOARD OF OCCUPATIONAL THERAPY PRACTICE

Chapter 3-A: LICENSURE AS A TEMPORARY LICENSEE, OCCUPATIONAL
THERAPIST OR OCCUPATIONAL THERAPY ASSISTANT

SUMMARY: This chapter sets forth license requirements and application procedures for the three levels of license issued by the board.

1. Qualifications for Licensure

A person applying for licensure as a temporary licensee, occupational therapist or occupational therapy assistant shall meet the qualifications for licensure set forth in 32 MRSA §2278, "Temporary License," 32 MRSA §2279, "Qualifications" or 32 MRSA §2284, "Foreign-Trained Applicants."

2. Application for Licensure

Application for licensure must be made on forms provided by the board and must be accompanied by the applicable fees prescribed by Chapter 10, Section 5(25) of the rules of the Office of Professional and Occupational Regulation, entitled "Establishment of License Fees." Completion of the educational program required by 32 MRSA §2278, §2279(3) or §2284(1) must be demonstrated by an official academic transcript issued under the seal of the educational institution. The character references required by 32 MRSA §2279(2-A) may not be from a person related to the applicant by blood or by marriage.

An applicant for a temporary license or licensure as an occupational therapy assistant shall submit documentation of supervision on a form provided by the board. Applicants for all levels of licensure shall also submit, in the form required by the board:

1. Verification of licensure from any jurisdiction in which the applicant was at any time licensed as an occupational therapy practitioner;
 2. Information relating to any criminal or disciplinary history of the applicant; and
 3. Such other information as the board may require.
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STATUTORY AUTHORITY: 32 MRSA §§2274(2), 2278, 2279, and 2284

EFFECTIVE DATE:

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

477 BOARD OF OCCUPATIONAL THERAPY PRACTICE

Chapter 4: FEES

SUMMARY: This chapter lists the license fees charged by the Board.

Section 1. FEES

1. Fees shall be as follows:

Application (nonrefundable)	\$60.00
Occupational therapist (original/renewal)	\$80.00
Temporary occupational therapist (original/renewal)	\$25.00
Occupational therapy assistant (original/renewal)	\$70.00
Temporary occupational therapy assistant (original/renewal)	\$20.00
Reissue original certificate	\$ 5.00
Renewal late fee	\$10.00
Criminal history record check	\$ 8.00
2. If an application is denied, or permission to take the examination is refused, the Board may refund only the license fee.	

STATUTORY AUTHORITY: 32 MRSA §§2274(2), 2283(1), and 2285(1)

EFFECTIVE DATE:

June 3, 2001

NON-SUBSTANTIVE CORRECTIONS:

March 25, 2004 - spelling only

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

477 BOARD OF OCCUPATIONAL THERAPY PRACTICE

Chapter 5: ROLE OF THE OCCUPATIONAL THERAPY ASSISTANT ~~AND;~~
SUPERVISION OF OCCUPATIONAL THERAPY ASSISTANTS AND
TEMPORARY ~~OCCUPATIONAL THERAPISTS~~ LICENSEES

SUMMARY: This chapter describes the permissible duties of the occupational therapy assistant and the duties of occupational therapists in the supervision of ~~assistants~~ occupational therapy assistants and temporary licensees.

1. Role of the Occupational Therapy Assistant

The occupational therapy assistant:

1. ~~Is permitted to~~ May assist in the practice of occupational therapy only ~~under with~~ the supervision of an occupational therapist;
2. ~~Must- Shall exercise sound judgment and provide appropriate care~~ apply critical thinking and clinical reasoning, including reflection and reassessment, in addressing clients' needs in the performance of duties;
3. ~~Must- May not~~ initiate a treatment intervention program ~~until only when~~ the client has been evaluated and intervention treatment has been planned by the occupational therapist, and may ~~not~~ discharge the client from a treatment intervention program ~~without supervision from only in collaboration with or after consultation with~~ the occupational therapist;
4. ~~Must- May~~ not perform an evaluation, but is permitted to contribute to the evaluation process ~~with the supervision of in collaboration or consultation with~~ the occupational therapist;
5. ~~Is permitted to~~ May participate in the screening process by collecting data, such as records, by general observation and/or by conducting a general interview, and may communicate in writing or orally the information gathered to the occupational therapist;
6. ~~Is permitted to~~ May track the need for reassessment, report changes in status that might warrant reassessment or referral, and administer the reassessment under the supervision of the occupational therapist; and

7. Must-~~Shall~~ immediately discontinue any specific treatment procedure which appears harmful to the client and so notify the supervising occupational therapist.

NOTE: The permissible activities of occupational therapists are set forth in 32 MRSA §2272(12) (statutory definition of occupational therapy).

2. Supervision of Occupational Therapy Assistants and Temporary Licensees

1. Principles of Supervision

The occupational therapist has the ultimate responsibility for occupational therapy treatment outcomes. Supervision is a shared responsibility. The supervising occupational therapist has a legal and ethical responsibility to provide supervision, and the supervisee has a legal and ethical responsibility to obtain supervision. Supervision is required even when the supervisee is experienced and/or highly skilled in a particular area. A supervisor is legally and ethically responsible for the professional activities of an occupational therapy assistant or temporary licensee under his or her supervision.

2. Knowledge of Client

The supervising occupational therapist must have knowledge of the client, or the occupational therapy services received by the client, and the problems being discussed.

3. Supervision of Occupational Therapy Assistants

Supervision consists of “initial directions and periodic inspection of the service delivery and provision of relevant in-service training. The supervising licensed occupational therapist shall determine the frequency and nature of the supervision to be provided based on the clients’ required level of care and the COTA’s caseload, experience and competency.” 32 MRSA §2272(14)

4. Supervision of Temporary Licensees

For temporary licensees, supervision “includes initial and periodic inspection or written assessments, written treatment plans, patient notes and periodic evaluation of performance. The reviews and evaluations must be conducted in person by a licensed occupational therapist.” 32 MRSA §2272(15)

5. Supervision Requirement; Supervision Forms

A. Each occupational therapy assistant and temporary licensee must have a supervisor of record for each facility or work setting at or in which the occupational therapy assistant or temporary licensee is employed. The

supervising occupational therapist must agree in writing, on a form provided by the board, to provide supervision to the named supervisee pursuant to the laws and rules governing the practice of occupational therapy. Any change of supervisor must be documented by a replacement or supplemental supervision form, as the case may be.

B. All supervision forms must be sent to the board no later than 10 days after execution by the supervisor and supervisee. The supervisor and supervisee are equally responsible for sending the forms to the board and ensuring that accurate, up-to-date supervision forms are on file with the board at all times.

~~Section 2. SKILL AND SUPERVISION LEVELS APPLICABLE TO OCCUPATIONAL THERAPY ASSISTANTS AND TEMPORARY OCCUPATIONAL THERAPISTS~~

~~—— Skill Levels:~~

- ~~—— 1. Entry level—Working on initial skill development (0-1 year experience) or working in a new practice area.~~
- ~~—— 2. Intermediate level—Increased independence and mastery of basic roles and functions. Demonstrates ability to respond to new situations based on previous experience (generally 1-5 years' experience).~~
- ~~—— 3. Advanced level—Refinement of skills with the ability to understand complex issues and respond accordingly.~~

~~—— Supervision Levels:~~

- ~~—— 1. Direct Supervision—Daily, direct contact at the site of work with the supervisor physically present at all times within the facility when the supervisee renders care. This supervision may be recommended by the Board or chosen by the supervisor in specific circumstances.~~
- ~~—— 2. Close Supervision—Daily, direct contact at the site of work. The occupational therapist provides direction in developing the plan of treatment and periodically inspects the actual implementation of the plan. This supervision is appropriate for temporary and entry level occupational therapy assistants.~~
- ~~—— 3. Routine Supervision—Requires direct contact at least every 2 weeks at the site of work, with interim supervision occurring by other methods, such as by telephone or written communication. This supervision is appropriate for a temporary occupational therapist or for an intermediate level occupational therapy assistant.~~

4. General Supervision—Initial direction and periodic review of the following: service delivery, update of treatment plans, and treatment outcomes. The supervisor need not at all times be present at the premises where the occupational therapy assistant is performing the professional services. However, not less than monthly direct contact must be provided, with supervision available as needed by other methods. This supervision is appropriate for an intermediate to advanced occupational therapy assistant.

Section 3. SUPERVISION OF OCCUPATIONAL THERAPY ASSISTANTS AND TEMPORARY OCCUPATIONAL THERAPISTS

1. Supervision principles. The occupational therapist has the ultimate responsibility for occupational therapy treatment outcomes. Supervision is a shared responsibility. The supervising occupational therapist has a legal and ethical responsibility to provide supervision, and the supervisee has a legal and ethical responsibility to obtain supervision. Supervision is required even when the supervisee is experienced and/or highly skilled in a particular area.
2. Supervision parameters. The level of supervision required shall be determined by the skill level of the individual whose practice is being supervised:

SUPERVISION LEVEL	DESCRIPTION (Please refer to Section 2, "Supervision Levels" above.)	SKILL LEVEL
Direct	<ul style="list-style-type: none"> • Daily direct contact • Supervisor present at all times within the facility when the supervisee renders care 	Chosen in specific circumstances by supervisor or Board
Close	<ul style="list-style-type: none"> • Daily direct contact at the site of work • OT provides direction in developing the plan of Rx • OT periodically inspects the actual implementation of the plan 	Entry level OTA or Temporary OTA
Routine	<ul style="list-style-type: none"> • Direct contact at least once every two weeks at site of work • Interim supervision by other methods, such as telephone or written communication 	Temporary OT or Intermediate level OTA

General	<ul style="list-style-type: none"> Initial direction, periodic review and inspection of service delivery, update of treatment plans, and treatment outcomes Not less frequent than monthly direct contact—Supervisor need not be present on the premises where OTA renders care for contact to qualify as “direct monthly.” 	Intermediate level OTA or Advanced-level OTA
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3. Supervision Standards:

- A. To maintain high standards of practice: “Supervision” connotes the physical presence of the supervisor and the supervisee at regularly scheduled one to one supervision sessions.
- B. Supervision is provided in varying patterns as determined by the demands of the areas of client service and the competency of the individual supervisee. Supervision is structured according to the supervisee’s qualifications, position, level of preparation, depth of experience, and the environment within which he/she functions.
- C. The supervisor is responsible for the standard of work performed by the supervisee and must have knowledge of the client and the problems being discussed.
- D. A minimum guideline of formal on-site face-to-face supervision is 2.5 percent (or 1 hour per 40 hours worked) of the supervisee’s work hours. Supervision shall be provided a minimum of once a month. For the temporary and entry level occupational therapy assistant, a minimum guideline of formal on-site face-to-face supervision is 5 percent (or 2 hours per 40 hours worked).

4. Documentation of Supervision:

- A. Supervisor’s Affidavit The licensed occupational therapy assistant or temporary occupational therapy practitioner shall designate, on a Board approved form, the supervising occupational therapist and the facilities or settings within which the occupational therapy assistant or temporary occupational therapy practitioner shall work. A form shall be filed for each place of employment for the licensed occupational therapy assistant or temporary occupational therapy practitioner. In a setting where there is more than one occupational therapist delegating to a occupational therapy assistant or temporary occupational therapy practitioner, one occupational therapist shall be the designated supervisor who completes the affidavit form and ensures the requirements have been met.

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- ~~B. Change in Supervision The Board shall be notified regarding changes in supervision for temporary licensees and occupational therapy assistants within fifteen (15) days of the change. Notification shall be in the form of a signed supervisor's affidavit form.~~
- ~~C. Supervisor Absence In extenuating circumstances, when the supervising occupational therapist is absent from the job, the occupational therapy assistant or temporary occupational therapy practitioner is permitted to carry out established programs under employer supervision for up to 15 calendar days while appropriate occupational therapy supervision is sought. The occupational therapist shall provide up to date treatment documentation prior to any planned absence.~~
- ~~D. The documentation of supervision shall be available for inspection if requested by the Board. This supervision shall meet the minimum guidelines outlined in Section 2 of this chapter. This shall include dates, general content of supervision session, and time. This documentation shall be completed by the individual who has signed the affidavit to verify that the supervision has been provided.~~
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STATUTORY AUTHORITY: 32 MRSA §§2272(12) and 2274(2)

EFFECTIVE DATE:

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

477 BOARD OF OCCUPATIONAL THERAPY PRACTICE

Chapter 6: RENEWAL REQUIREMENTS AND CONTINUING EDUCATION

SUMMARY: This chapter outlines the requirements for licensing renewal and for continuing professional education, establishes the hours of continuing education needed for renewal, defines the different categories of continuing education activities which will be accepted, and explains the approval process.

~~Section 1. RENEWAL PROCEDURE~~

- ~~1. All permanent licenses expire on March 31 of odd-numbered years.~~
- ~~2. A renewal notice will be sent to the last known address of the licensee. It is the responsibility of the licensee to notify the Board of any change in address. The renewal application, along with the renewal fee specified in Chapter 4, shall be returned to the Board no later than March 31 of odd-numbered years.~~
- ~~3. Documented continuing education, as described in Section 2 below, is required for license renewal.~~
- ~~4. Renewal of a temporary license is addressed in Chapter 3, Section 2(2).~~

~~Section 2. CONTINUING EDUCATION~~

- ~~1. Purpose: Occupational therapy practitioners are licensed in Maine to protect the public. The process of qualifying for licensure is intended to ensure that occupational therapy practitioners have both current knowledge and continuing competency for quality practice. Continuing education is a means of updating and upgrading knowledge and skills for practice. While education may also be pursued for other aspects of a licensee's work, the Board is concerned with occupational therapy competency. Therefore, education in areas such as management, computers, staff supervision, or safety training, etc. will not be accepted for continuing education credit. Continuing education for purposes connected with the maintenance of licensure shall be directly relevant and applicable to the practice of occupational therapy. It is the responsibility of the licensee to validate the relevancy/applicability to the practice of occupational therapy for any seminars, programs, or courses in question.~~

- ~~2. Definitions: As used in these rules, unless the context otherwise indicates, the following terms have the following meanings:~~
- ~~A. Continuing education. "Continuing education" means learning experiences that are designed to promote the development of knowledge, skills and attitudes for the enhancement of occupational therapy clinical practice.~~
- ~~B. Continuing education unit. One (1) "continuing education unit," or "CEU," equals ten (10) contact hours of continuing education.~~
- ~~C. Contact hour. One (1) "contact hour" equals sixty (60) minutes of participation in continuing education.~~
- ~~D. Continuing education cycle. The "continuing education cycle" consists of a two (2) year period beginning on January 1 of odd-numbered years and ending on December 31 of the following even-numbered year.~~
- ~~3. Hours and Activities:~~
- ~~The licensee shall present evidence of having kept abreast of new information in the practice of occupational therapy through workshops, seminars, institutes, or other education, as described in paragraph D below. Subject to the exceptions contained in paragraphs A and B below, the minimum requirement shall be evidence of thirty-six (36) contact hours of study (equivalent to 3.6 CEUs), which shall be completed for every license renewal. This continuing education shall be earned within the continuing education cycle.~~
- ~~A. If the initial occupational therapy license is issued in the first year of the biennium (odd-numbered year), then eighteen (18) contact hours shall be required for that cycle.~~
- ~~B. If the initial occupational therapy license is issued in the second year of the biennium (even-numbered year), then no contact hours shall be required for that cycle.~~
- ~~C. Continuing education shall be directly relevant and applicable to the practice of occupational therapy. If the relevance of a course is not self-evident, then it is the responsibility of the licensee to supplement the documentation of continuing education with an explanation of how the course is relevant. Any requests by the Board for clarification may delay the issuance of the renewal license.~~

~~D. The following categories or activities shall be accepted for license renewal:~~

~~(1) Academic Education~~

~~(a) Verified by a transcript from an accredited school~~

~~(b) Maximum: twenty four (24) hours (2.4 CEUs)~~

~~(2) Workshops, institutes, conferences, seminars~~

~~(a) Formal, organized learning experiences under the direction of a qualified instructor~~

~~(b) Documented by a certificate of attendance~~

~~(c) Total workshop/conference must be 3 hours minimum~~

~~(d) AOTA self-study program certificates of completion will be accepted in this category~~

~~(e) Maximum: twenty four (24) hours (2.4 CEUs)~~

~~(3) Teaching~~

~~(a) Documented by curriculum outline, copies of presentation, course description~~

~~(b) Preparation and presentation for the first time of:~~

~~academic occupational therapy course~~

~~training workshop~~

~~professional seminar~~

~~presentation at a professional meeting~~

~~inservice~~

~~(c) Does not include family/caregiver training on a specific client~~

~~(d) 2 hours of preparation time shall be permitted for each 1 hour of presentation.~~

- ~~(e) Maximum: twenty four (24) hours (2.4 CEUs)~~
- ~~(4) Professional writing and/or research~~
 - ~~(a) Shall result in peer reviewed, edited publication~~
 - ~~(b) Verifiable evidence of publication (such as the title page, introduction, etc.) or verifiable evidence of acceptance for publication (such as the Letter of Acceptance for publication) shall be submitted~~
 - ~~(c) Preparation time shall be credited at time of submission of evidence~~
 - ~~(d) Maximum: twenty four (24) hours (2.4 CEUs)~~
- ~~(5) Inservice/work related education~~
 - ~~(a) Verifiable evidence (attendance sheet, certificate)~~
 - ~~(b) Inservice/work related education *does not* include:~~
 - ~~employee orientations~~
 - ~~routine staff meetings~~
 - ~~safety instruction (example: CPR, personal safety, or fire safety)~~
 - ~~family/caregiver training~~
 - ~~(c) Workshop submissions equal to, or less than, 3 hours' duration~~
 - ~~(d) Maximum: ten (10) hours (1.0 CEU)~~
- ~~(6) Independent Study~~
 - ~~(a) Documented by title, author, journal/book, time spent and completion date~~
 - ~~(b) Includes study carried out individually through completion of:~~
 - ~~books~~
 - ~~journals~~
 - ~~tapes~~

~~videotapes~~

~~self study courses (including courses available on the internet)~~

~~(c) Maximum: ten (10) hours (1.0 CEU)~~

~~(7) Student Supervision~~

~~(a) Documentation from the educational institution, including dates, student name and level~~

~~(b) Includes supervision of Level II OT and/or OTA students~~

~~(c) Five (5) hours (.5 CEU) per student~~

~~(d) Maximum: Credit will be given for 2 students per biennium for ten (10) hours (1.0 CEU)~~

~~4. Documentation~~

~~A. CEU packets are sent out to licensees by September 1 of even numbered years. If a CEU packet has not been received by September 30, the licensee should contact the Board office.~~

~~NOTE: CEU packets are mailed to the licensee's last known address. The Board shall be notified in writing of address changes as they occur.~~

~~B. The continuing education cycle ends on December 31 of even numbered years.~~

~~C. The CEU form shall be returned to the Board no later than January 15 of odd-numbered years (i.e., 2½ months prior to biennial license renewal).~~

~~D. CEU forms shall be filled out completely, signed, and received by the Board no later than the January 15 deadline. All necessary documentation, evidence and explanations shall be included with the form. *Incomplete or unsigned submissions will not be accepted and will be returned to the applicant.* The licensee is advised to make personal copies of all materials submitted to the Board; original documents will not be returned.~~

~~E. Continuing education documentation must be reviewed and accepted by the Board before a license will be renewed.~~

~~F. Late submissions, the need to request further evidence of relevance, or incomplete documentation will cause delays which may result in lapse of~~

~~licensure. Licensees whose licenses have lapsed as of March 31 of the renewal year cannot work as occupational therapy practitioners until a renewed license has actually been issued. Unlicensed practice of occupational therapy is subject to court action by the Attorney General and/or the Office of the District Attorney.~~

~~5. Appeal~~

~~Persons seeking to appeal a Board decision regarding credit for continuing education shall submit the request in writing within thirty (30) days after receiving notification of denial and shall include a copy of all pertinent materials.~~

STATUTORY AUTHORITY: 32 MRSA §§2274(2) and 2283(3)

EFFECTIVE DATE:

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

477 BOARD OF OCCUPATIONAL THERAPY PRACTICE

Chapter 6-A: LICENSE RENEWAL; REINSTATEMENT

SUMMARY: This chapter sets forth the requirements for renewing licenses issued by the board and references the statutory requirements for reinstatement of a license that has expired for more than 90 days.

1. License Term1. Occupational Therapists; Occupational Therapy Assistants

Licenses of all occupational therapists and occupational therapy assistants expire annually on March 31.

2. Temporary Licensees

The temporary license is issued for a term of 6 months and may be renewed for an additional 6 months at the discretion of the board following review of the documentation required by Section 3 of this chapter.

2. License Renewal

A temporary licensee, occupational therapist or occupational therapy assistant may renew a license by:

1. Submitting a renewal application;2. Remitting the license fee required prescribed by Chapter 10, Section 5(25) of the rules of the Office of Professional and Occupational Regulation, entitled "Establishment of License Fees;"3. For licenses renewed up to 90 days after the date of expiration, remitting the late fee required by Chapter 11, Section 2(1) of the Rules of the Office of Professional and Occupational Regulation, entitled "Establishment of License Fees;"4. Providing information relating to any criminal or disciplinary history of the applicant since the time of last renewal; and5. Providing such other information as the board may require.

3. Temporary Licensee (one-time 6 month renewal)

In addition to the items required by Section 2 of this chapter, a temporary licensee shall also submit:

1. NBCOT approval to sit for the appropriate certification examination;
2. A study plan for the appropriate certification examination;
3. A supervision plan appropriate for the practice setting that meets the requirements of 32 MRSA §2272(15) and has been signed by the supervising occupational therapist; and
4. Such other information as the board may require.

4. Reinstatement

Renewal of a license that has has expired for more than 90 days is governed by 32 MRSA §2283(1).

STATUTORY AUTHORITY: 32 MRSA §§2274(2)

EFFECTIVE DATE:

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

477 BOARD OF OCCUPATIONAL THERAPY PRACTICE

Chapter 7: CODE OF ETHICS AND ETHICS STANDARDS

SUMMARY: This chapter establishes ethical standards of practice for occupational therapists, occupational therapy assistants and temporary licensees.

1. Adoption; Compliance

Subject to the exclusions listed in Section 2 below, the board adopts the AOTA Occupational Therapy Code of Ethics and Ethics Standards (2010) (“Code and Ethics Standards”) as the ethical standard of practice for persons holding a license to practice occupational therapy in this State. A copy of the Code and Ethics Standards is attached to this chapter and made a part hereof. All practitioners must comply with the Code and Ethics Standards.

2. Exclusions

The board does not adopt the following provisions of the Code and Ethics Standards:

1. Principle 4, Social Justice, in its entirety, with the exception of paragraph F;
 2. Principle 5, Procedural Justice, paragraphs D and F; and
 3. Principle 7, Fidelity, paragraphs C, D and G.
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STATUTORY AUTHORITY: 32 MRSA §§2274(2), 2283(2)

EFFECTIVE DATE:

Occupational Therapy Code of Ethics and Ethics Standards (2010)

(included as part of Chapter 7 of the Rules of the Board of Occupational Therapy Practice)

PREAMBLE

The American Occupational Therapy Association (AOTA) *Occupational Therapy Code of Ethics and Ethics Standards (2010)* (“Code and Ethics Standards”) is a public statement of principles used to promote and maintain high standards of conduct within the profession. Members of AOTA are committed to promoting inclusion, diversity, independence, and safety for all recipients in various stages of life, health, and illness and to empower all beneficiaries of occupational therapy. This commitment extends beyond service recipients to include professional colleagues, students, educators, businesses, and the community.

Fundamental to the mission of the occupational therapy profession is the therapeutic use of everyday life activities (occupations) with individuals or groups for the purpose of participation in roles and situations in home, school, workplace, community, and other settings. “Occupational therapy addresses the physical, cognitive, psychosocial, sensory, and other aspects of performance in a variety of contexts to support engagement in everyday life activities that affect health, well being, and quality of life” AOTA, 2004). Occupational therapy personnel have an ethical responsibility primarily to recipients of service and secondarily to society.

The *Occupational Therapy Code of Ethics and Ethics Standards (2010)* was tailored to address the most prevalent ethical concerns of the profession in education, research, and practice. The concerns of stakeholders including the public, consumers, students, colleagues, employers, research participants, researchers, educators, and practitioners were addressed in the creation of this document. A review of issues raised in ethics cases, member questions related to ethics, and content of other professional codes of ethics were utilized to ensure that the revised document is applicable to occupational therapists, occupational therapy assistants, and students in all roles.

The historical foundation of this Code and Ethics Standards is based on ethical reasoning surrounding practice and professional issues, as well as on empathic reflection regarding these interactions with others (see e.g., AOTA, 2005, 2006). This reflection resulted in the establishment of principles that guide ethical action, which goes beyond rote following of rules or application of principles. Rather, *ethical action* is a manifestation of moral character and mindful reflection. It is a commitment to benefit others, to virtuous practice of artistry and science, to genuinely good behaviors, and to noble acts of courage.

While much has changed over the course of the profession’s history, more has remained the same. The profession of occupational therapy remains grounded in seven core concepts, as identified in the *Core Values and Attitudes of Occupational Therapy Practice* (AOTA, 1993): *altruism, equality, freedom, justice, dignity, truth, and prudence*. *Altruism* is the individual’s ability to place the needs of others before their own. *Equality* refers to the desire to promote fairness in interactions with others. The concept of *freedom* and personal choice is paramount in a profession in which the desires of the client must guide our interventions. Occupational therapy practitioners, educators, and researchers relate in a fair and impartial manner to individuals with whom they interact and respect and adhere to the applicable laws and standards regarding their area of practice, be it direct care, education, or research (*justice*). Inherent in the practice of

occupational therapy is the promotion and preservation of the individuality and *dignity* of the client, by assisting him or her to engage in occupations that are meaningful to him or her regardless of level of disability. In all situations, occupational therapists, occupational therapy assistants, and students must provide accurate information, both in oral and written form (*truth*). Occupational therapy personnel use their clinical and ethical reasoning skills, sound judgment, and reflection to make decisions to direct them in their area(s) of practice (*prudence*). These seven core values provide a foundation by which occupational therapy personnel guide their interactions with others, be they students, clients, colleagues, research participants, or communities. These values also define the ethical principles to which the profession is committed and which the public can expect.

The *Occupational Therapy Code of Ethics and Ethics Standards (2010)* is a guide to professional conduct when ethical issues arise. Ethical decision making is a process that includes awareness of how the outcome will impact occupational therapy clients in all spheres. Applications of Code and Ethics Standards Principles are considered situation-specific, and where a conflict exists, occupational therapy personnel will pursue responsible efforts for resolution. These Principles apply to occupational therapy personnel engaged in any professional role, including elected and volunteer leadership positions.

The specific purposes of the *Occupational Therapy Code of Ethics and Ethics Standards (2010)* are to

1. Identify and describe the principles supported by the occupational therapy profession.
2. Educate the general public and members regarding established principles to which occupational therapy personnel are accountable.
3. Socialize occupational therapy personnel to expected standards of conduct.
4. Assist occupational therapy personnel in recognition and resolution of ethical dilemmas.

The *Occupational Therapy Code of Ethics and Ethics Standards (2010)* define the set of principles that apply to occupational therapy personnel at all levels:

DEFINITIONS

- **Recipient of service:** Individuals or groups receiving occupational therapy.
- **Student:** A person who is enrolled in an accredited occupational therapy education program.
- **Research participant:** A prospective participant or one who has agreed to participate in an approved research project.
- **Employee:** A person who is hired by a business (facility or organization) to provide occupational therapy services.
- **Colleague:** A person who provides services in the same or different business (facility or organization) to which a professional relationship exists or may exist.
- **Public:** The community of people at large.

BENEFICENCE

Principle 1. Occupational therapy personnel shall demonstrate a concern for the well-being and safety of the recipients of their services.

Beneficence includes all forms of action intended to benefit other persons. The term *beneficence* connotes acts of mercy, kindness, and charity (Beauchamp & Childress, 2009). Forms of beneficence typically include altruism, love, and humanity. Beneficence requires taking action by helping others, in other words, by promoting good, by preventing harm, and by removing harm. Examples of beneficence include protecting and defending the rights of others, preventing harm from occurring to others, removing conditions that will cause harm to others, helping persons with disabilities, and rescuing persons in danger (Beauchamp & Childress, 2009).

Occupational therapy personnel shall

- A. Respond to requests for occupational therapy services (e.g., a referral) in a timely manner as determined by law, regulation, or policy.
- B. Provide appropriate evaluation and a plan of intervention for all recipients of occupational therapy services specific to their needs.
- C. Reevaluate and reassess recipients of service in a timely manner to determine if goals are being achieved and whether intervention plans should be revised.
- D. Avoid the inappropriate use of outdated or obsolete tests/assessments or data obtained from such tests in making intervention decisions or recommendations.
- E. Provide occupational therapy services that are within each practitioner's level of competence and scope of practice (e.g., qualifications, experience, the law).
- F. Use, to the extent possible, evaluation, planning, intervention techniques, and therapeutic equipment that are evidence-based and within the recognized scope of occupational therapy practice.
- G. Take responsible steps (e.g., continuing education, research, supervision, training) and use careful judgment to ensure their own competence and weigh potential for client harm when generally recognized standards do not exist in emerging technology or areas of practice.
- H. Terminate occupational therapy services in collaboration with the service recipient or responsible party when the needs and goals of the recipient have been met or when services no longer produce a measurable change or outcome.
- I. Refer to other health care specialists solely on the basis of the needs of the client.
- J. Provide occupational therapy education, continuing education, instruction, and training that are within the instructor's subject area of expertise and level of competence.
- K. Provide students and employees with information about the Code and Ethics Standards, opportunities to discuss ethical conflicts, and procedures for reporting unresolved ethical conflicts.
- L. Ensure that occupational therapy research is conducted in accordance with currently accepted ethical guidelines and standards for the protection of research participants and the dissemination of results.
- M. Report to appropriate authorities any acts in practice, education, and research that appear unethical or illegal.

- N. Take responsibility for promoting and practicing occupational therapy on the basis of current knowledge and research and for further developing the profession's body of knowledge.

NONMALEFICENCE

Principle 2. Occupational therapy personnel shall intentionally refrain from actions that cause harm.

Nonmaleficence imparts an obligation to refrain from harming others (Beauchamp & Childress, 2009). The principle of nonmaleficence is grounded in the practitioner's responsibility to refrain from causing harm, inflicting injury, or wronging others. While beneficence requires action to incur benefit, nonmaleficence requires non-action to avoid harm (Beauchamp & Childress, 2009). Nonmaleficence also includes an obligation to not impose risks of harm even if the potential risk is without malicious or harmful intent. This principle often is examined under the context of *due care*. If the standard of due care outweighs the benefit of treatment, then refraining from treatment provision would be ethically indicated (Beauchamp & Childress, 2009).

Occupational therapy personnel shall

- A. Avoid inflicting harm or injury to recipients of occupational therapy services, students, research participants, or employees.
- B. Make every effort to ensure continuity of services or options for transition to appropriate services to avoid abandoning the service recipient if the current provider is unavailable due to medical or other absence or loss of employment.
- C. Avoid relationships that exploit the recipient of services, students, research participants, or employees physically, emotionally, psychologically, financially, socially, or in any other manner that conflicts or interferes with professional judgment and objectivity.
- D. Avoid engaging in any sexual relationship or activity, whether consensual or nonconsensual, with any recipient of service, including family or significant other, student, research participant, or employee, while a relationship exists as an occupational therapy practitioner, educator, researcher, supervisor, or employer.
- E. Recognize and take appropriate action to remedy personal problems and limitations that might cause harm to recipients of service, colleagues, students, research participants, or others.
- F. Avoid any undue influences, such as alcohol or drugs, that may compromise the provision of occupational therapy services, education, or research.
- G. Avoid situations in which a practitioner, educator, researcher, or employer is unable to maintain clear professional boundaries or objectivity to ensure the safety and well-being of recipients of service, students, research participants, and employees.
- H. Maintain awareness of and adherence to the Code and Ethics Standards when participating in volunteer roles.
- I. Avoid compromising client rights or well-being based on arbitrary administrative directives by exercising professional judgment and critical analysis.

- J. Avoid exploiting any relationship established as an occupational therapist or occupational therapy assistant to further one's own physical, emotional, financial, political, or business interests at the expense of the best interests of recipients of services, students, research participants, employees, or colleagues.
- K. Avoid participating in bartering for services because of the potential for exploitation and conflict of interest unless there are clearly no contraindications or bartering is a culturally appropriate custom.
- L. Determine the proportion of risk to benefit for participants in research prior to implementing a study.

AUTONOMY AND CONFIDENTIALITY

Principle 3. Occupational therapy personnel shall respect the right of the individual to self-determination.

The principle of autonomy and confidentiality expresses the concept that practitioners have a duty to treat the client according to the client's desires, within the bounds of accepted standards of care and to protect the client's confidential information. Often *autonomy* is referred to as the *self-determination* principle. However, respect for autonomy goes beyond acknowledging an individual as a mere agent and also acknowledges a "person's right to hold views, to make choices, and to take actions based on personal values and beliefs" (Beauchamp & Childress, 2009, p. 103). Autonomy has become a prominent principle in health care ethics; the right to make a determination regarding care decisions that directly impact the life of the service recipient should reside with that individual. The principle of autonomy and confidentiality also applies to students in an educational program, to participants in research studies, and to the public who seek information about occupational therapy services.

Occupational therapy personnel shall

- A. Establish a collaborative relationship with recipients of service including families, significant others, and caregivers in setting goals and priorities throughout the intervention process. This includes full disclosure of the benefits, risks, and potential outcomes of any intervention; the personnel who will be providing the intervention(s); and/or any reasonable alternatives to the proposed intervention.
- B. Obtain consent before administering any occupational therapy service, including evaluation, and ensure that recipients of service (or their legal representatives) are kept informed of the progress in meeting goals specified in the plan of intervention/care. If the service recipient cannot give consent, the practitioner must be sure that consent has been obtained from the person who is legally responsible for that recipient.
- C. Respect the recipient of service's right to refuse occupational therapy services temporarily or permanently without negative consequences.
- D. Provide students with access to accurate information regarding educational requirements and academic policies and procedures relative to the occupational therapy program/educational institution.
- E. Obtain informed consent from participants involved in research activities, and ensure that they understand the benefits, risks, and potential outcomes as a result of their participation as research subjects.

- F. Respect research participant's right to withdraw from a research study without consequences.
- G. Ensure that confidentiality and the right to privacy are respected and maintained regarding all information obtained about recipients of service, students, research participants, colleagues, or employees. The only exceptions are when a practitioner or staff member believes that an individual is in serious foreseeable or imminent harm. Laws and regulations may require disclosure to appropriate authorities without consent.
- H. Maintain the confidentiality of all verbal, written, electronic, augmentative, and non-verbal communications, including compliance with HIPAA regulations.
- I. Take appropriate steps to facilitate meaningful communication and comprehension in cases in which the recipient of service, student, or research participant has limited ability to communicate (e.g., aphasia or differences in language, literacy, culture).
- J. Make every effort to facilitate open and collaborative dialogue with clients and/or responsible parties to facilitate comprehension of services and their potential risks/benefits.

SOCIAL JUSTICE

Principle 4. Occupational therapy personnel shall provide services in a fair and equitable manner.

Social justice, also called *distributive justice*, refers to the fair, equitable, and appropriate distribution of resources. The principle of social justice refers broadly to the distribution of all rights and responsibilities in society (Beauchamp & Childress, 2009). In general, the principle of social justice supports the concept of achieving justice in every aspect of society rather than merely the administration of law. The general idea is that individuals and groups should receive fair treatment and an impartial share of the benefits of society. Occupational therapy personnel have a vested interest in addressing unjust inequities that limit opportunities for participation in society (Braveman & Bass-Haugen, 2009). While opinions differ regarding the most ethical approach to addressing distribution of health care resources and reduction of health disparities, the issue of social justice continues to focus on limiting the impact of social inequality on health outcomes.

Occupational therapy personnel shall

- A. Uphold the profession's altruistic responsibilities to help ensure the common good.
- B. Take responsibility for educating the public and society about the value of occupational therapy services in promoting health and wellness and reducing the impact of disease and disability.
- C. Make every effort to promote activities that benefit the health status of the community.
- D. Advocate for just and fair treatment for all patients, clients, employees, and colleagues, and encourage employers and colleagues to abide by the highest standards of social justice and the ethical standards set forth by the occupational therapy profession.
- E. Make efforts to advocate for recipients of occupational therapy services to obtain needed services through available means.

- F. Provide services that reflect an understanding of how occupational therapy service delivery can be affected by factors such as economic status, age, ethnicity, race, geography, disability, marital status, sexual orientation, gender, gender identity, religion, culture, and political affiliation.
- ~~G. Consider offering *pro bono* (“for the good”) or reduced-fee occupational therapy services for selected individuals when consistent with guidelines of the employer, third-party payer, and/or government agency.~~

PROCEDURAL JUSTICE

Principle 5. Occupational therapy personnel shall comply with institutional rules, local, state, federal, and international laws and AOTA documents applicable to the profession of occupational therapy.

Procedural justice is concerned with making and implementing decisions according to fair processes that ensure “fair treatment” (Maiese, 2004). Rules must be impartially followed and consistently applied to generate an unbiased decision. The principle of procedural justice is based on the concept that procedures and processes are organized in a fair manner and that policies, regulations, and laws are followed. While *the law* and *ethics* are not synonymous terms, occupational therapy personnel have an ethical responsibility to uphold current reimbursement regulations and state/territorial laws governing the profession. In addition, occupational therapy personnel are ethically bound to be aware of organizational policies and practice guidelines set forth by regulatory agencies established to protect recipients of service, research participants, and the public.

Occupational therapy personnel shall

- A. Be familiar with and apply the Code and Ethics Standards to the work setting, and share them with employers, other employees, colleagues, students, and researchers.
- B. Be familiar with and seek to understand and abide by institutional rules, and when those rules conflict with ethical practice, take steps to resolve the conflict.
- C. Be familiar with revisions in those laws and AOTA policies that apply to the profession of occupational therapy and inform employers, employees, colleagues, students, and researchers of those changes.
- ~~D. Be familiar with established policies and procedures for handling concerns about the Code and Ethics Standards, including familiarity with national, state, local, district, and territorial procedures for handling ethics complaints as well as policies and procedures created by AOTA and certification, licensing, and regulatory agencies.~~
- E. Hold appropriate national, state, or other requisite credentials for the occupational therapy services they provide.
- ~~F. Take responsibility for maintaining high standards and continuing competence in practice, education, and research by participating in professional development and educational activities to improve and update knowledge and skills.~~
- G. Ensure that all duties assumed by or assigned to other occupational therapy personnel match credentials, qualifications, experience, and scope of practice.
- H. Provide appropriate supervision to individuals for whom they have supervisory responsibility in accordance with AOTA official documents and local, state, and federal or national laws, rules, regulations, policies, procedures, standards, and guidelines.

- I. Obtain all necessary approvals prior to initiating research activities.
- J. Report all gifts and remuneration from individuals, agencies, or companies in accordance with employer policies as well as state and federal guidelines.
- K. Use funds for intended purposes, and avoid misappropriation of funds.
- L. Take reasonable steps to ensure that employers are aware of occupational therapy's ethical obligations as set forth in this Code and Ethics Standards and of the implications of those obligations for occupational therapy practice, education, and research.
- M. Actively work with employers to prevent discrimination and unfair labor practices, and advocate for employees with disabilities to ensure the provision of reasonable accommodations.
- N. Actively participate with employers in the formulation of policies and procedures to ensure legal, regulatory, and ethical compliance.
- O. Collect fees legally. Fees shall be fair, reasonable, and commensurate with services delivered. Fee schedules must be available and equitable regardless of actual payer reimbursements/contracts.
- P. Maintain the ethical principles and standards of the profession when participating in a business arrangement as owner, stockholder, partner, or employee, and refrain from working for or doing business with organizations that engage in illegal or unethical business practices (e.g., fraudulent billing, providing occupational therapy services beyond the scope of occupational therapy practice).

VERACITY

Principle 6. Occupational therapy personnel shall provide comprehensive, accurate, and objective information when representing the profession.

Veracity is based on the virtues of truthfulness, candor, and honesty. The principle of *veracity* in health care refers to comprehensive, accurate, and objective transmission of information and includes fostering the client's understanding of such information (Beauchamp & Childress, 2009). Veracity is based on respect owed to others. In communicating with others, occupational therapy personnel implicitly promise to speak truthfully and not deceive the listener. By entering into a relationship in care or research, the recipient of service or research participant enters into a contract that includes a right to truthful information (Beauchamp & Childress, 2009). In addition, transmission of information is incomplete without also ensuring that the recipient or participant understands the information provided. Concepts of veracity must be carefully balanced with other potentially competing ethical principles, cultural beliefs, and organizational policies. Veracity ultimately is valued as a means to establish trust and strengthen professional relationships. Therefore, adherence to the Principle also requires thoughtful analysis of how full disclosure of information may impact outcomes.

Occupational therapy personnel shall

- A. Represent the credentials, qualifications, education, experience, training, roles, duties, competence, views, contributions, and findings accurately in all forms of communication about recipients of service, students, employees, research participants, and colleagues.
- B. Refrain from using or participating in the use of any form of communication that contains false, fraudulent, deceptive, misleading, or unfair statements or claims.

- C. Record and report in an accurate and timely manner, and in accordance with applicable regulations, all information related to professional activities.
- D. Ensure that documentation for reimbursement purposes is done in accordance with applicable laws, guidelines, and regulations.
- E. Accept responsibility for any action that reduces the public's trust in occupational therapy.
- F. Ensure that all marketing and advertising are truthful, accurate, and carefully presented to avoid misleading recipients of service, students, research participants, or the public.
- G. Describe the type and duration of occupational therapy services accurately in professional contracts, including the duties and responsibilities of all involved parties.
- H. Be honest, fair, accurate, respectful, and timely in gathering and reporting fact-based information regarding employee job performance and student performance.
- I. Give credit and recognition when using the work of others in written, oral, or electronic media.
- J. Not plagiarize the work of others.

FIDELITY

Principle 7. Occupational therapy personnel shall treat colleagues and other professionals with respect, fairness, discretion, and integrity.

The principle of fidelity comes from the Latin root *fidelis* meaning loyal. *Fidelity* refers to being faithful, which includes obligations of loyalty and the keeping of promises and commitments (Veatch & Flack, 1997). In the health professions, fidelity refers to maintaining good-faith relationships between various service providers and recipients. While respecting fidelity requires occupational therapy personnel to meet the client's reasonable expectations (Purtillo, 2005), Principle 7 specifically addresses fidelity as it relates to maintaining collegial and organizational relationships. Professional relationships are greatly influenced by the complexity of the environment in which occupational therapy personnel work. Practitioners, educators, and researchers alike must consistently balance their duties to service recipients, students, research participants, and other professionals as well as to organizations that may influence decision-making and professional practice.

Occupational therapy personnel shall

- A. Respect the traditions, practices, competencies, and responsibilities of their own and other professions, as well as those of the institutions and agencies that constitute the working environment.
- B. Preserve, respect, and safeguard private information about employees, colleagues, and students unless otherwise mandated by national, state, or local laws or permission to disclose is given by the individual.
- ~~C. Take adequate measures to discourage, prevent, expose, and correct any breaches of the Code and Ethics Standards and report any breaches of the former to the appropriate authorities.~~
- ~~D. Attempt to resolve perceived institutional violations of the Code and Ethics Standards by utilizing internal resources first.~~
- E. Avoid conflicts of interest or conflicts of commitment in employment, volunteer roles, or research.

- F. Avoid using one's position (employee or volunteer) or knowledge gained from that position in such a manner that gives rise to real or perceived conflict of interest among the person, the employer, other Association members, and/or other organizations.
- ~~G. Use conflict resolution and/or alternative dispute resolution resources to resolve organizational and interpersonal conflicts.~~
- H. Be diligent stewards of human, financial, and material resources of their employers, and refrain from exploiting these resources for personal gain.

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Adopted by the Representative Assembly 2010CApr17.

Note. This document replaces the following rescinded Ethics documents 2010CApril18: the Occupational Therapy Code of Ethics (2005) (American Journal of Occupational Therapy, 59, 639–642); the Guidelines to the Occupational Therapy Code of Ethics (American Journal of Occupational Therapy, 60, 652–658); and the Core Values and Attitudes of Occupational Therapy Practice (American Journal of Occupational Therapy, 47, 1085–1086).

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02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

477 BOARD OF OCCUPATIONAL THERAPY PRACTICE

Chapter 8: ENFORCEMENT AND DISCIPLINARY PROCEDURES

~~SUMMARY: This chapter describes the procedure by which complaints and investigations will be handled by the board.~~

~~Section 1. COMPLAINT OFFICER~~

~~— The Complaint Officer shall be responsible for investigating complaints and presenting them to the Board.~~

~~Section 2. PROCESSING OF COMPLAINTS~~

~~— The Board will follow the procedure for initiating and processing complaints set forth in the Standard Complaint Procedure of the Division of Licensing and Registration, Department of Professional and Financial Regulation, a copy of which shall be available upon request from the Complaint Office.~~

STATUTORY AUTHORITY: 32 MRSA §§2274(2) and 2286

EFFECTIVE DATE:

June 3, 2001

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

634 BOARD OF OCCUPATIONAL THERAPY PRACTICE

Chapter 9: PROFESSIONAL MISCONDUCT

Summary: This chapter describes professional misconduct that may result in disciplinary action against a licensee, including denial or nonrenewal of a license.

1. Grounds for Discipline

In addition to the grounds for discipline set forth in 10 MRSA §8003(5-A)(A) and 32 MRSA §2286, the board may impose disciplinary action against a licensee, including denial or nonrenewal of a license, for any of the following reasons:

1. Habitual Substance Abuse

Habitual substance abuse that has resulted or is foreseeably likely to result in the licensee performing professional services in a manner that endangers the health or safety of patients; or

2. Sexual Misconduct

Sexual misconduct, which includes but is not limited to:

- A. Sexual behavior with an individual served in the context of a professional evaluation, treatment, procedure or other service to the client or patient, regardless of the setting in which the professional service is provided;
- B. Sexual behavior with an individual served under the pretense of diagnostic or therapeutic intent or benefit;
- C. Making sexual advances toward or requesting sexual favors from an individual served;
- D. Therapeutically inappropriate or intentional touching in a sexual manner of an individual served;
- E. Physical contact of a sexual nature with an individual served;
- F. Therapeutically unnecessary discussion of sexual matters or other verbal conduct of a sexual nature while treating the individual being served;
- G. Directly or indirectly watching the individual served while the individual is undressing or dressing when it is not part of the therapeutic process;

- H. Taking, for sexual purposes, photographs or videos of an individual served; and
 - I. Sexual harassment of staff or students.
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STATUTORY AUTHORITY: 32 MRSA §2274(2)

EFFECTIVE DATE: